AMENDMENTS TO THE DRAWINGS

The attached sheet(s) of drawings includes changes to Figure 5. In accordance with the specification, the reference sign to the title pane has changed to 178.

Attachment: Replacement sheet

Annotated sheet showing changes

REMARKS

Applicants have amended claims 1-9, and 12-20 to more particularly point out and distinctly claim the invention. Applicants have also cancelled claims 27-32. Upon entering the amendments, claims 1-26 will be pending in this application.

Drawings

The Examiner objected to the drawings as failing to comply with 37 CFR 1.84(p)(5), with specific reference to Figure 5. Applicants have addressed the objection in the attached replacement for Figure 5.

Claim Rejections – 35 USC § 102

The Examiner rejected claims 1, 5, 7, 12, 16, and 18 under 35 U.S.C. § 102(b) as being anticipated by Goodman (U.S. Patent Number 5,827,180). Applicants submit, however, that contrary to what the examiner appears to believe, Goodman does not teach or suggest many elements recited in the independent claims, as amended.

For instance, Goodman does not teach:

> …from each of a plurality of receiving users, receiving corresponding personal health message receiving criteria for determining messages to be received by that receiving user

as recited in claim 1, as amended. Based on the office action, the Examiner appears to believe otherwise and she directed our attention to the following passage from Goodman:

> In one embodiment, the message device 20 provides a medication alarm. A patient's entire medication regimen, including dosing intervals, can be downloaded from the host computer 30 to the data processor 10 via communication line 31. This information is transferred to the message device 20 when it is in communication with the date processor 10 (Col. 4, LL 39-45).

The Examiner further stated that in Goodman "a message is sent to a message receiver (i.e. patient) based on his personal health history (in this case, the patient medication history)." But nothing in

the referenced passage or any other passage of Goodman teaches receiving personal health message receiving criteria from a user for determining messages to be received by that user. Rather, Goodman determines which messages are to be sent to a patient based on that patient's treatment plan. The treatment plan is something that is provided, not by the patient, but by a health care provider. This is evident from the following passages:

> In one embodiment ... logic sequences or algorithms 115 are developed <u>based on a treatment plan</u> or guidelines for a specific patient, which <u>plan is provided by the primary provider</u> ... [T]he algorithm can be stored in an appropriately configured message device 20 that can be accessed as required by the patient (Col. 8, LL. 37-44, emphases added).

> A primary provider 4 has two asthma patients, 2a and 2b. The <u>primary provider 4 has transmitted the following exemplary treatment parameters</u> to the third party facility 3 for monitoring ... The third party facility 3 develops algorithms ... <u>based on the treatment parameters</u>. A sequence of steps corresponding to these algorithms ... are then programmed into either the host computer 30, the processor 10 or an appropriately configured message device 20, preferably the latter (Col. 8, L. 65- Col 9, L. 28, emphases added).

Goodman also does not actually teach any of the other elements that are recited in claim 1. More specifically, Goodman does not teach:

> from a transmitting user, receiving a message and personal health message transmitting criteria for directing the received message to other users, the personal health message transmitting criteria including health categories that are relevant to the received message or to the transmitting user;

> comparing the personal health message receiving criteria for each of the plurality of receiving users to the personal health message transmitting criteria to identify those users among the plurality of receiving users to whom the received message should be transmitted; and

> transmitting the received message to the identified receiving users among the plurality of users

as further recited in amended claim 1. The Examiner has argued that Goodman teaches the receiving and transmitting steps and by implication the comparing step and in support of that position she directed our attention to the following passages of Goodman:

> Wireless carrier 60 thus receives instructions form host computer 30 to deliver particular messages to <u>specific patients</u> 2 at predetermined times (Col. 6, LL. 1-3, emphasis added)

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> In a further embodiment, the customized patient management program 110 utilizes data other than the patient's physiological data, e.g., data pertaining to environmental conditions. The host computer 30, processor 10 or message device 20 is appropriately programmed to receive such data and/or deliver messages to the patient. Returning to Example 1, the asthma of patient 2a can be triggered by pollen. Thus, when the pollen count exceeds a certain threshold, which threshold may be <u>unique to a patient 2a</u>, a message warning patient 2a of a high pollen count in her geographic area can be displayed (Col. 11, LL. 3-13, emphasis added)

The Examiner states that "the method described by Goodman can send messages to a patient based on health characteristics of a patient (i.e. high pollen counts for asthmatics)."

But neither of these passages or any other section of Goodman teaches that Goodman receives "from a transmitting user … personal health message transmitting criteria" and "identifies … users to whom the received message should be transmitted" by "comparing the personal health message receiving criteria for each of the … receiving users to the personal health message transmitting criteria." On the contrary, the above passages reveal that Goodman's system generates a message for a specific patient based on a treatment plan that is developed specifically for that patient, or is based on a criteria that is unique to that patient, and then sends that generated message to the patient. This is apparent form the following passages:

> In one embodiment, the facility receives treatment instructions from the health care provider that are <u>specifically developed for each patient</u>. Algorithms are developed based on such instructions. The algorithms are then programmed into an appropriately configured message device in the possession of the patient (Abstract, emphasis added).

> In one embodiment of a customized patient management program 110, logic sequences or algorithms 115 are developed based on a treatment plan or guidelines <u>for a specific patient</u>, which plan is provided by the primary provider 4 … Since the treatment plan is developed <u>specifically for the patient</u>, and since the algorithm 11 5 based on the treatment plan accepts an indicia of the patient's then current health status, message content is thus <u>customized for the patient</u> and responsive to changes in the patient's health status (Col. 8, LL. 37-61, emphases added).

Furthermore, Goodman does not perform the functions of "transmitting <u>the received message [from a transmitting user]</u> to the identified [receiving] users" as recited in the amended claim 1. Instead, as the above passages indicate, the messages that are sent to the patient are not messages received from a transmitting user, but rather are they messages that were created by some programs running on patient's message device. In Goodman, a third party facility develops

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algorithms based on treatment instructions received from the health care provider and programs those algorithms into a patient's message device. Those programs, in turn, create the messages that are presented to the patient by the device.

Independent claim 12 includes limitations that are similar to those discussed above. All other claims listed above depend from one of claims 1 or 12. Therefore, at least for the reasons stated above, those claims are not anticipated by Goodman.

Claim Rejections – 35 USC § 103

The Examiner rejected claims 2-4, 5, 8-11, 13-15, 17, and 19-32 under 35 U.S.C. § 103(a) as being unpatentable over Goodman in view of the press release entitled "WellMed Introduces Industry's First comprehensive Personal Health Management System Including Online Health Record" (WellMed, Inc., Oregon, August 23, 1999. PR Newswire).

Regarding independent claim 23, the Examiner states that while Goodman teaches a computer-readable medium, he fails to teach a data structure comprising the personal health message receiving criteria and personal health message transmitting criteria. To supply that which is missing, the Examiner relies on WellMed. Applicants, however, believe that WellMed does not, in fact, supply these missing features.

In support of his assertion to the contrary, the Examiner draws our attention to the following paragraphs from WellMed:

> WellMed's Personal Health Manager enables consumers to retrieve data that is customized for their interests and conditions. For example, a woman who is trying to stop smoking can access WellMed's Personal Health Manager through one of WellMed's partner portals and assess her health status using WellMed's Health Quotient (HQ(TM)) tool. The profile then generates a personalized homepage containing new smoking patch information, exercise recommendations and allergy alerts based on risk factors and interests identified during the HQ test. She will also have an option to enroll in one of WellMed's tailored improvement programs, such as the smoking cessation plan, to help her stop smoking (¶8).

> WellMed will also be introducing a customized instant messaging system for people with specific ailments. Individuals diagnosed with certain conditions can opt to be anonymously connected with other individuals in similar situations via their personal homepage. This is

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beneficial in the same way systems that match patients to clinical trials have been useful for physicians (¶16).

However, neither of these passages, or any other section of WellMed, teaches or suggests "a data structure comprising: personal health message receiving criteria associated with receiving users … and personal health message transmitting criteria associated with transmitting users" as recited in claim 23. The WellMed document simply says that personal home pages might be used as a vehicle to anonymously connect people to each other. That is not the same as the receive and forward mechanism of the type claimed.
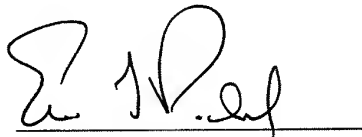
All other pending claims depend from one of the dependent claims 1, 12, and 23. Therefore, at least for the reasons stated above, the rejected claims are patentable over Goodman, or a combination of Goodman and WellMed.

In view of the above, Applicants believe that the pending application is in condition for allowance, which action is requested.

Please apply any charges not covered, or any credits, to Deposit Account No. 08-0219 under Order No. 2000874.00153 US1 from which the undersigned is authorized to draw.

Respectfully submitted,

Dated: July 7, 2008

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